



# COUNTY OF LOS ANGELES

## CLAIMS BOARD

500 WEST TEMPLE STREET  
LOS ANGELES, CALIFORNIA 90012-2713

### MEMBERS OF THE BOARD

John Naimo  
Auditor-Controller  
Steven E. NyBlom  
Chief Executive Office  
Patrick A. Wu  
Office of the County Counsel

## NOTICE OF MEETING

The County of Los Angeles Claims Board will hold its regular meeting on **Monday, December 3, 2012, at 9:30 a.m.**, in the Executive Conference Room, 648 Kenneth Hahn Hall of Administration, Los Angeles, California.

## AGENDA

1. Call to Order.
2. Opportunity for members of the public to address the Claims Board on items of interest that are within the subject matter jurisdiction of the Claims Board.
3. Closed Session - Conference with Legal Counsel - Existing Litigation (Subdivision (a) of Government Code Section 54956.9).

- a. Howard Portman v. James Byron Hart, et al.  
Los Angeles Superior Court Case No. SC 114 646

This lawsuit arises from alleged injuries sustained in a vehicle accident involving an employee of the Department of Public Works; settlement is recommended in the amount of \$65,000.

### [See Supporting Documents](#)

- b. Settlement of County's Claim for Property Damage at Barry J. Nidorf Juvenile Detention Facility

This claim concerns costs incurred by the County to repair its subsurface sewer line, which was damaged by Leighton Consulting, Inc.; it is recommended that the County accept the amount of \$122,793 to settle this matter.

### [See Supporting Documents](#)

- c. Ruth Perez v. County of Los Angeles  
United States District Court Case No. CV 10-05836

This lawsuit concerns allegations of excessive force and false arrest by Sheriff Deputies; settlement is recommended in the amount of \$75,000.

[See Supporting Documents](#)

- d. Alberto Gutierrez v. County of Los Angeles, et al.  
United States District Court Case No. CV 10-04428

This lawsuit concerns allegations of false arrest by Sheriff Deputies; settlement is recommended in the amount of \$230,000.

[See Supporting Documents](#)

- e. Eddie Aceves v. County of Los Angeles  
Los Angeles Superior Court Case No. BC 472 491

This lawsuit concerns allegations that an employee of the Department of Mental Health was subjected to retaliation, harassment, discrimination, and the failure by the Department to accommodate and engage in the interactive process; settlement is recommended in the amount of \$45,000.

- f. Nelly Castañeda v. County of Los Angeles, et al.  
Los Angeles Superior Court Case No. BC 451 510

This lawsuit concerns allegations that an employee of Maxim Healthcare Services, Inc., was subjected to harassment, assault and battery, retaliation and discrimination by an employee of the Department of Health Services; settlement is recommended in the amount of \$100,000.

- g. Elizabeth Peralta v. County of Los Angeles, Sharon Harper, Michael Freeman, Carla Williams, Helen Jo & James Ealey  
Los Angeles Superior Court Case No. BC 444 026

This lawsuit concerns allegations that an employee of the Fire Department was subjected to retaliation, harassment, and discrimination, and the failure by the Department to prevent such retaliation, harassment and discrimination; settlement is recommended in the amount of \$390,000.

4. Report of actions taken in Closed Session.
5. Approval of the minutes of the November 19, 2012, meeting of the Claims Board.

**[See Supporting Document](#)**

6. Items not on the posted agenda, to be referred to staff or placed on the agenda for action at a further meeting of the Board, or matters requiring immediate action because of emergency situation or where the need to take immediate action came to the attention of the Board subsequent to the posting of the agenda.
7. Adjournment.

## **CASE SUMMARY**

### **INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION**

|                             |  |
|-----------------------------|--|
| CASE NAME                   | Howard Portman v. James Byron Hart, et al.   |
| CASE NUMBER                 | SC 114646  |
| COURT                       | Los Angeles County Superior Court  |
| DATE FILED                  | October 26, 2011   |
| COUNTY DEPARTMENT           | Public Works   |
| PROPOSED SETTLEMENT AMOUNT  | \$ 65,000  |
| ATTORNEY FOR PLAINTIFF      | Gregory G. Rizio<br>Rizio & Nelson   |
| COUNTY COUNSEL ATTORNEY     | Richard K. Kudo<br>Senior Deputy County Counsel  |
| NATURE OF CASE              | This lawsuit arises from a vehicle collision that occurred on February 1, 2010, on Fernwood Pacific Drive in Topanga Canyon between a car driven by plaintiff Howard Portman and a County truck driven defendant James Byron Hart. Mr. Portman claims he sustained injuries as a result of the collision. Due to the risks and uncertainties of litigation, a full and final settlement of the case is warranted |
| PAID ATTORNEY FEES, TO DATE | \$ 17,009.00   |
| PAID COSTS, TO DATE         | \$ 4,786.21  |



## Summary Corrective Action Plan

### County of Los Angeles Department of Public Works



The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

|  |   |
|--|---|
| Claim/Lawsuit:                                       | Howard Portman  |
| Date of incident/event:                              | February 1, 2010  |
| Briefly provide a description of the incident/event: | On February 1, 2010, Mr. Howard Portman was driving his 2008 Toyota Prius northbound on Fernwood Pacific Drive, near Valley View Drive, in the unincorporated Malibu area. At that time, a Road Maintenance Division (RMD) employee was operating a 1993 International dump truck southbound on Fernwood Pacific Drive, negotiating a tight curve, when the rock blade of the truck entered into the opposing lane of traffic and it subsequently struck the claimant's vehicle. Mr. Portman sustained various injuries as a result of the collision. |

1. Briefly describe the root cause of the claim/lawsuit:

During our review of the incident, it was found that the left portion of the rock blade extended into the opposing traffic lane. The claimant did not have enough time to perceive and react to avoid the collision.

2. Briefly describe recommended corrective actions:

(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

The matter was reviewed by Public Works' Automotive Safety Committee on April 8, 2010. The committee found the incident to be nonpreventable.

To minimize the occurrence of similar future incidents, by December 1, 2012, RMD will send a memorandum to their employees that, except for exigent circumstances, crews will adhere to the following in areas known to contain tight curves and spaces:

1. Within operational needs, avoid using equipment with front mounted roadway blades.
2. If practicable and feasible, use smaller sized equipment in operations that require the use of roadway blades.
3. Give an audible warning with the horn of the vehicle when driving through tight curves and spaces as required by Section 21662 (b) of the California Vehicle Code.

RMD will instruct TrukSpect to add the aforesaid items to the annual commercial vehicle training module. In addition, RMD will incorporate these items into the annual tailgate safety meetings

County of Los Angeles Department of Public Works  
Summary Corrective Action Plan

conducted in September of each year. The RMD Safety Coordinator will also update the On-the-Job Training form for this type of equipment and the Code of Safe Operating Practices for Storm Patrol and Trucks to reflect the aforesaid items. The memorandum will be added to Public Works' internal website for future reference.

3. State if the corrective actions are applicable to only your department or other County departments: (If unsure, please contact the Chief Executive Office Risk Management Branch for assistance)

- ☐ Potentially has a Countywide implication.
- ☐ Potentially has implications to other departments (i.e., all human services, all safety departments, or one or more other departments).
- ☒ Does not appear to have Countywide or other department implications.

|  |                  |
|--|------------------|
| Signature: (Risk Management Coordinator) | Date:            |
| Steven G. Steinhoff <i>SG Steinhoff</i>  | October 22, 2012 |
| Signature: (Director)                    | Date:            |
| Gail Farber <i>Gail Farber</i>           | 11-26-12.        |

*WPK*  
Chief Executive Office Risk Management Branch

|                |          |
|----------------|----------|
| Name:          | Date:    |
| LEO COSTANTINO |          |
| Signature:     | Date:    |
| <i>LM</i>      | 11/27/12 |

*RS*  
RS:psr  
P4:PORTMAN SCAP2

## CASE SUMMARY

### INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

|                            |   |
|----------------------------|---|
| CASE NAME                  | Settlement of County's Claim for Property Damage at Barry J. Nidorf Juvenile Detention Facility   |
| CASE NUMBER                | Not Applicable  |
| COURT                      | Not Applicable  |
| DATE FILED                 | Not Applicable  |
| COUNTY DEPARTMENT          | Internal Services Department  |
| PROPOSED SETTLEMENT AMOUNT | \$ \$40,931   |
| ATTORNEY FOR PLAINTIFF     | Not Applicable  |
| COUNTY COUNSEL ATTORNEY    | Talin Halabi  |
| NATURE OF CASE             | <p>The County's Chief Executive Office ("CEO") retained the services of Leighton Consulting, Inc. ("Leighton") to perform subsurface environmental investigation, including drilling of monitoring wells, at Barry J. Nidorf Juvenile Detention Facility in Sylmar ("Facility"). The Facility is maintained by County's Internal Services Department ("ISD").</p> <p>Shortly after Leighton completed its work, ISD discovered that Leighton's drilling had damaged one of the Facility's subsurface sewer lines.</p> |

The County paid \$163,724 to repair the sewer line and demanded full reimbursement from Leighton.

Leighton claims that the County should share some responsibility in the cost to repair the sewer line because it failed to respond to Leighton's requests for information regarding the location of underground utilities in the vicinity of the drilling.

Following negotiations with the CEO, Leighton and the County reached a proposed settlement, subject to approval by the Claims Board, whereby Leighton would pay the County \$122,793 and County would absorb the remaining \$40,931 it paid to repair its sewer line.

|                             |    |       |
|-----------------------------|----|-------|
| PAID ATTORNEY FEES, TO DATE | \$ | 7,600 |
| PAID COSTS, TO DATE         | \$ | 0.00  |





## Summary Corrective Action Plan

The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

|  |  |
|--|--|
| Date of incident/event:                              | January 15, 2011   |
| Briefly provide a description of the incident/event: | While drilling a test well for water sampling, an unusually 10 feet deep clay sewer mainline at Barry J. Nidorf Juvenile Hall was inadvertently and unknowingly damaged in spite of measures taken by the vendor, Leighton Consulting, Inc., to have the area marked for underground utilities. Due to a break in communication between ISD, CEO, and Leighton Consulting, Inc., the prints were not made available to Leighton Consulting prior to starting the job. In the process of pouring a well casing, the cement slurry flowed into the damaged main sewer line subsequently causing progressive and frequent sewage stoppages over a period of two (2) months. |
|  |  |

1. Briefly describe the root cause(s) of the claim/lawsuit:

1. The existence of a main sewer line 10 feet deep inside a facility is not typical.
2. Inadequate communication regarding the project to include timeframes and deadlines.
3. The blue prints were not provided timely to Leighton Consulting, Inc.

2. Briefly describe recommended corrective actions:  
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

The Department responsible for project management to complete construction of monitoring wells shall:

- 1) Utilize the attached Boring of Monitoring Wells checklist.
  - 2) ISD and CEO Risk Management will meet with County Departments that have project managers and crafts personnel to review and implement the checklist by March 31, 2013.
- ❖ We have established the above steps for future projects of this nature.

3. State if the corrective actions are applicable to only your department or other County departments:  
(If unsure, please contact the Chief Executive Office Risk Management for assistance)

- ☐ Potentially has County-wide implications.
- ☒ Potentially has an implication to other departments (i.e., all human services, all safety departments, or one or more other departments).
- ☐ Does not appear to have County-wide or other department implications.

|                                     |                |
|-------------------------------------|----------------|
| Name: (Risk Management Coordinator) |                |
| Araceli H. Aranda                   |                |
| Signature: Araceli H. Aranda        | Date: 10/24/12 |

|                         |                |
|-------------------------|----------------|
| Name: (Department Head) |                |
| Tim Braden Tim BRADEN   |                |
| Signature: Tim Braden   | Date: 10-25-12 |

Chief Executive Office Risk Management

|                        |                  |
|------------------------|------------------|
| Name: CEO COSTANTINO   |                  |
| Signature: [Signature] | Date: 10/24/2012 |

### Boring for Monitoring Well Safety Check List

**Steps required prior to any excavation. Please adhere to all California Occupational Safety and Health Regulations. Check appropriate boxes with dates for each step listed below:**

Excavation Company Name: \_\_\_\_\_

Forman/Supervisor: \_\_\_\_\_

Project Name: \_\_\_\_\_

Project Location: \_\_\_\_\_

Description of Planned Excavation Activity: \_\_\_\_\_

Proposed Start Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_

#### Responsible Party

#### County

- |                          |   |                          |
|--------------------------|---|--------------------------|
| <input type="checkbox"/> | All parties to discuss scope of work.   | <input type="checkbox"/> |
| <input type="checkbox"/> | All parties to visit work site.   | <input type="checkbox"/> |
| <input type="checkbox"/> | Responsible party to provide as built blue prints to identify underground utilities in a timely manner.   | <input type="checkbox"/> |
| <input type="checkbox"/> | Responsible party to provide what techniques will be used to locate underground utilities.<br>Listed below as some techniques:<br>Dig Alert<br>Underground Service Alert (USA – Dial 811)<br>Radar imaging<br>X-ray imaging<br>Radio detection<br>Air-knifing | <input type="checkbox"/> |
| <input type="checkbox"/> | All parties identify and mark excavation areas.   | <input type="checkbox"/> |
| <input type="checkbox"/> | All boring/coring shall be done by a person knowledgeable, experienced, and competent in underground excavation.  | <input type="checkbox"/> |

Note: This is only a supplement to the terms and conditions of the contract between Los Angeles County and the Contractor.

## **CASE SUMMARY**

### **INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION**

|                             |  |
|-----------------------------|--|
| CASE NAME                   | Ruth Perez v. County of Los Angeles  |
| CASE NUMBER                 | CV 10-05836  |
| COURT                       | United States District Court   |
| DATE FILED                  | August 5, 2010   |
| COUNTY DEPARTMENT           | Sheriff's Department   |
| PROPOSED SETTLEMENT AMOUNT  | \$ 75,000  |
| ATTORNEY FOR PLAINTIFF      | Dale Galipo, Esq.  |
| COUNTY COUNSEL ATTORNEY     | Millicent L. Rolon   |
| NATURE OF CASE              | <p>Plaintiff Ruth Perez alleges her federal civil rights were violated when she was falsely arrested and subjected to excessive force by Los Angeles County Sheriff's Deputies.</p> <p>Due to the risks and uncertainties of litigation, a full and final settlement of the case in the amount of \$75,000 is recommended.</p> |
| PAID ATTORNEY FEES, TO DATE | \$ 78,174  |
| PAID COSTS, TO DATE         | \$ 16,924  |

Case Name: Ruth Perez v. County of Los Angeles, et al.



## Summary Corrective Action Plan

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|  |   |
|--|---|
| Date of incident/event:                              | Sunday, August 16, 2009; approximately 2:30 p.m.  |
| Briefly provide a description of the incident/event: | <p><u>Ruth Perez v. County of Los Angeles, et al.</u><br/>Summary Corrective Action Plan No. 2012-035</p> <p>On Sunday, August 16, 2009, at approximately 2:30 p.m., the plaintiff was detained by two Los Angeles County deputy sheriffs for violating California Penal Code section 374.4, Littering. During the course of the detention, it was determined the plaintiff may also be in violation of California Health and Safety Code section 11550(a), Under the Influence of a Controlled Substance. The plaintiff was arrested and taken into custody.</p> |

1. Briefly describe the root cause(s) of the claim/lawsuit:

In her lawsuit, the plaintiff alleged that representatives of the Los Angeles County Sheriff's Department subjected her to excessive force, falsified a criminal charge against her, and denied her medical attention.

2. Briefly describe recommended corrective actions:  
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

The Los Angeles County Sheriff's Department had relevant policies and procedures/protocols in effect at the time of the incident.

The Los Angeles County Sheriff's Department's training curriculum sufficiently addresses the circumstances which occurred in this incident.

This incident was thoroughly reviewed by representatives from the Los Angeles County Sheriff's Department's Century Station. No systemic issues were identified, and no employee misconduct is suspected. Consequently, no corrective action measures are recommended nor contemplated.

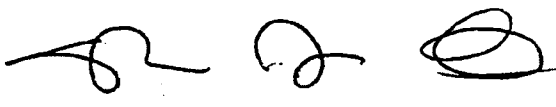
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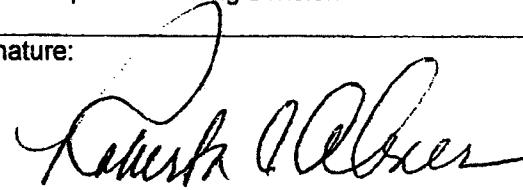
County of Los Angeles  
Summary Corrective Action Plan

3. State if the corrective actions are applicable to only your department or other County departments:  
(If unsure, please contact the Chief Executive Office Risk Management Branch for assistance).


- ☐ Potentially has Countywide implications.
- ☐ Potentially has an implication to other departments (i.e., all human services, all safety departments, or one or more other departments).
- ☒ Does not appear to have Countywide or other department(s) implications.

**Los Angeles County Sheriff's Department**

|   |                  |
|---|------------------|
| Name: (Risk Management Coordinator)<br><br>Shaun J. Mathers, Captain<br>Risk Management Bureau  |                  |
| Signature:<br> | Date:<br>11/2/12 |

|   |                  |
|---|------------------|
| Name: (Department Head)<br><br>Roberta A. Abner, Chief<br>Leadership and Training Division        |                  |
| Signature:<br> | Date:<br>11/5/12 |

**Chief Executive Office Risk Management Branch**

|   |                     |
|---|---------------------|
| Name:<br><br>LEO COSTANTINO   |                     |
| Signature:<br> | Date:<br>11-21-2012 |

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## **CASE SUMMARY**

### **INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION**

|                             |   |
|-----------------------------|---|
| CASE NAME                   | Alberto Gutierrez v. County of Los Angeles, et al.  |
| CASE NUMBER                 | CV 1004428  |
| COURT                       | United States District Court  |
| DATE FILED                  | October 6, 2010   |
| COUNTY DEPARTMENT           | Sheriff's Department  |
| PROPOSED SETTLEMENT AMOUNT  | \$ 230,000  |
| ATTORNEY FOR PLAINTIFF      | Arnold Casillas, Esq.<br>Gregory W. Moreno & Associates   |
| COUNTY COUNSEL ATTORNEY     | Millicent L. Rolon  |
| NATURE OF CASE              | <p>Plaintiff Alberto Gutierrez alleges that his civil rights were violated when he was falsely arrested by Sheriff's Deputies and then prosecuted.</p> <p>The Sheriff's Deputies contend that they had probable cause for the arrest and prosecution.</p> <p>Due to the risks and uncertainties of litigation, a full and final settlement of the case in the amount of \$230,000 is recommended.</p> |
| PAID ATTORNEY FEES, TO DATE | \$ 43,329   |
| PAID COSTS, TO DATE         | \$ 17,445   |

Case Name: **Alberto Gutierrez v. County of Los Angeles, et al.**



## Summary Corrective Action Plan

The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

|  |  |
|--|--|
| Date of incident/event:                              | Tuesday, May 27, 2008 through April 2010   |
| Briefly provide a description of the incident/event: | <p><b><u>Alberto Gutierrez v. County of Los Angeles</u></b><br/>Summary Corrective Action Plan No. 2012-032</p> <p>The plaintiff alleged that members of the Los Angeles County Sheriff's Department violated his civil rights by fabricating evidence to have him arrested and conspired to conceal a romantic relationship between his estranged wife and a member of the Los Angeles County Sheriff's Department.</p> |

1. Briefly describe the **root cause(s)** of the claim/lawsuit:

In his lawsuit, the plaintiff alleged that members of the Los Angeles County Sheriff's Department violated his civil rights by fabricating evidence to have him arrested and prosecuted.

2. Briefly describe recommended corrective actions:  
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

The Los Angeles County Sheriff's Department had relevant policies and procedures/protocols in effect at the time of this incident.

The Los Angeles County Sheriff's Department's training curriculum addresses the circumstances which occurred in this incident.

While no specific corrective action measures are immediately cited, representatives from the Los Angeles County Sheriff's Department's Internal Affairs Bureau initiated an administrative investigation to evaluate the incident more thoroughly.


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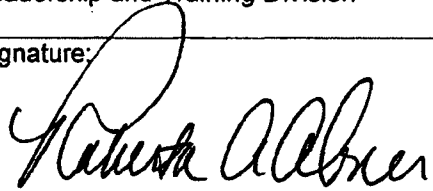


County of Los Angeles  
Summary Corrective Action Plan

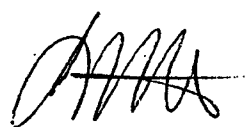
3. State if the corrective actions are applicable to only your department or other County departments:  
(If unsure, please contact the Chief Executive Office Risk Management Branch for assistance).

- ☐ Potentially has Countywide implications.
- ☐ Potentially has an implication to other departments (i.e., all human services, all safety departments, or one or more other departments).
- ☒ Does not appear to have Countywide or other department(s) implications.

|   |                   |
|---|-------------------|
| Name: (Risk Management Coordinator)   |                   |
| Shaun J. Mathers, Captain<br>Risk Management Bureau   |                   |
| Signature:<br> | Date:<br>10/31/12 |

|   |                   |
|---|-------------------|
| Name: (Department Head)   |                   |
| Roberta A. Abner, Chief<br>Leadership and Training Division                                       |                   |
| Signature:<br> | Date:<br>10/31/12 |

Chief Executive Office Risk Management Branch

|   |                   |
|---|-------------------|
| Name:<br>LEO COSTANTINO   |                   |
| Signature:<br> | Date:<br>11/20/12 |

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# COUNTY OF LOS ANGELES CLAIMS BOARD

## MINUTES OF REGULAR MEETING

November 19, 2012

### 1. Call to Order.

This meeting of the County of Los Angeles Claims Board was called to order at 9:32 a.m. The meeting was held in the Executive Conference Room, 648 Kenneth Hahn Hall of Administration, Los Angeles, California.

Claims Board Members present at the meeting were: John Naimo, Steven NyBlom, and Patrick Wu.

Other persons in attendance at the meeting were: Office of the County Counsel: Millicent Rolon.

### 2. Opportunity for members of the public to address the Claims Board on items of interest within the subject matter jurisdiction of the Claims Board.

No members of the public addressed the Claims Board.

### 3. Closed Session – Conference with Legal Counsel – Existing Litigation (Subdivision (a) of Government Code Section 54956.9).

At 9:34 a.m., the Chairperson adjourned the meeting into Closed Session to discuss the item listed as 4(a) below.

### 4. Report of actions taken in Closed Session.

At 9:58 a.m., the Claims Board reconvened in open session and reported the actions taken in Closed Session as follows:

#### a. Duvall Mariano v. Richard Torres, et al. United States District Court Case No. CV11-05106

This lawsuit concerns allegations of excessive force and false arrest by Sheriff Deputies.

#### Action Taken:

The Claims Board approved settlement of this matter in the amount of \$98,000.

Vote: Ayes: 3 - John Naimo, Steven NyBlom, and Patrick Wu

**5. Approval of the minutes of the November 5, 2012, meeting of the Claims Board.**

Action Taken:

The Claims Board approved the minutes.

Vote: Ayes: 3 - John Naimo, Steven NyBlom, and Patrick Wu

**6. Items not on the posted agenda, to be referred to staff or placed on the agenda for action at a further meeting of the Board, or matters requiring immediate action because of emergency situation or where the need to take immediate action came to the attention of the Board subsequent to the posting of the agenda.**

No such matters were discussed.

**7. Adjournment.**

The meeting was adjourned at 10:03 a.m.

COUNTY OF LOS ANGELES CLAIMS BOARD

By Carol J. Slosson  
Carol J. Slosson